

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE A. TORRES,

Petitioner,

v.

B.M. TRATE,

Respondent.

Case No. 1:23-cv-00403-EPG-HC

ORDER DIRECTING CLERK OF COURT
TO CLOSE CASE

Petitioner Jose A. Torres is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

In the petition, Petitioner challenges the denial of pre-trial credits for detention served while he awaited extradition. (ECF No. 1.) On April 14, 2023, Petitioner filed a notice of voluntary dismissal because Respondent awarded the relief requested. (ECF No. 5.)

Pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, “the plaintiff may dismiss an action without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” Fed. R. Civ. P. 41(a)(1)(A)(i). Voluntary dismissal under this rule grants a plaintiff an absolute right to dismiss without prejudice, requires no action on the part of the court, and divests the court of jurisdiction upon the filing of the notice of voluntary dismissal. See United States v. 475 Martin Lane, 545 F.3d 1134, 1145 (9th Cir. 2008) (describing consequences of voluntary dismissals pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)).

1 In this case, Respondent has not served either an answer or a motion for summary
2 judgment. Therefore, Petitioner's notice of dismissal was effective upon filing and without a
3 court order pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

4 For the sake of clarity, in light of Petitioner's notice of dismissal, IT IS HEREBY
5 ORDERED that the Clerk of the Court is DIRECTED to CLOSE the case.

6
7 IT IS SO ORDERED.

8 Dated: April 24, 2023

/s/ Eric P. Grogan
UNITED STATES MAGISTRATE JUDGE